REMARKS

Claims 10 11, 14, 15, 18, 28, 29, 32, 33, 36, 72, 73, 84, 85 and 88 remain rejected as anticipated. Claims 12, 13, 16, 17, 30, 31, 34, 35, 48, 49, 52, 53, 74 to 82, 83, 86 and 87 remain rejected as obvious.

§ 102 Rejections

Claims 10, 11, 14, 15, 18, 28, 29, 32, 33, 36, 72, 73, 84, 85 and 88 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2004/0024652, hereinafter referred to as Buhse.

Applicant respectfully traverses the anticipation rejection of each of Claims 10, 28, and 72. As demonstrated more completely below, the rejection fails to comply with the multiple MPEP requirements for an anticipation rejection. The rejection has failed to consider the plain meaning of the claims and has failed to consider all claims limitations. The rejection reduces express claim limitations to a gist and even then fails to demonstrate that the reference teaches the gist in the same level of detail and arranged as required by the claims. The rejection has failed to meet the MPEP requirements for an anticipation rejection and has not even made a valid obviousness rejection.

The Plain Meaning of the Claim has been Ignored

Claim 10 is used as an example. All the operations recited in Claim 10 are performed on a single device, a user device. First, a digital content specification is determined. The authenticated rights locker access request associated with the specification is also determined. This is not just some promotional ID, but rather a specific type of request, an authenticated rights locker access request.

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Further, the authentication was done by a specific party—a rights locker provider for the rights locker.

Thus, the rejection must cite a teaching of a rights locker, identify the provider for that locker and then demonstrate that that particular provider authenticated the request that is determined in this operation. This was not done in the rejection and instead, the explicit recitation was reduced to just downloading something from some location that provides some rights management.

Next in these claims, both the authenticated rights locker access request and the digital content specification are sent from the user device to the rights locker provider. Again, two specific items are sent from the user device to a specific party, the party that authenticated the access request originally. The rejection has failed to cite any teaching of sending two items as recited in this portion of the claim to an entity that authenticated the access request in the first portion of the claim.

After the sending, the user device receives a response from the rights locker provider, which includes two items: a new authenticated rights locker access request and a Web page with links. The links are associated with an authenticated digital content request. Thus, the rejection must show that the party that authenticated the original access request sends to the user device a new access request and a Web page. A showing of a Web page in general is not sufficient. The rejection must cite a showing of a Web page with at least one link associated with an authenticated digital content request. Note this is the third different authenticated request for which a teaching must be cited.

Next in these claims, the user device receives an indication of a user selection of one of said one or more clickable links on the Web page. The user device sends to the rights locker provider two items again—the new authenticated rights locker access request and an indication of the right associated with the one of said one

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or more clickable links. Finally, the user device receives from a digital content repository the digital content in response to said sending said new authenticated rights locker access request.

Thus, the user device sends and receives specific items in a specific sequence from a rights locker provider. The user device also receives specific items from a content repository.

The above interpretation of the claims depends on nothing other than reading the complete claim and using the plain meaning of the claim elements with the express definitions recited in the claim. The interpretation follows directly from the plain meaning of the words in the claims and so must be used in the anticipation analysis. The MPEP requires that "words of the claim **must** be given their plain meaning unless the plain meaning is inconsistent with the specification." MPEP § 2111.01, I., 8th Ed. Rev. 7, p 2100-38 (July 2008). As discussed more completely below, this was not done and instead express claim limitations were reduced to a gist, which is an improper form of analysis in an obviousness rejection and so cannot support an anticipation rejection.

The Rejection Failed To Meet the Anticipation Standard

Applicants below consider each portion of the claim and the rejection of that portion. For every portion of the claim, it is demonstrated that the rejection failed to establish that Buhse teaches the portion arranged as required by the claim and in the same level of detail as recited in the claim. It is unnecessary to make the showing portion by portion, because if Applicants demonstrate that Buhse fails teaches a single portion in the claim in the same level of detail and arranged by the claim, Applicant has demonstrated that a proper anticipation rejection has not been made.

Specifically, the MPEP requires:

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TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM

> . . . ."The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

MPEP § 2131, 8 Ed., Rev. 7, p. 2100-67 (July 2008). The MPEP unambiguously states that the claim element "**must be**" shown in as complete detail and arranged as required by the claim. This is not a permissive standard, but rather one with which the rejection is required to comply. Further, it is not enough that the rejection finds similar elements in Buhse. This standard also requires that Buhse must teach that the elements are arranged as required by Claims 10, 28, and 72.

With respect to the first portion of Claim 10, the rejection stated:

> *(pars. 0029-0030, 0042, and 0065-0066; Figs. 1 and 2C; step 1 and steps 4a: 'select content '; the Offer Catalog Component 102 accessible by customers, provides customers with a listing of the digital products available from each client; in response to the client or prescriptions directions, the Rights locker Component 104 issued purchased products to the customer; the consumer logs in using the promotion ID; see also pars. 0064-0072)* (Emphasis in original.)

Nowhere in the cited sections is an authenticated access request mentioned and so the reference cannot teach the specific authenticated access request recited in these claims. Specifically, Applicants electronically searched the text version of Buhse available on the USPTO website for "authen" and there were no hits. The rejection cited a Rights Locker Component 104, but failed to cite any teaching that a provider for a rights locker provided an

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authenticated request. Fig. 6B in Buhse illustrates the operations performed by the Rights Locker Component, and fails to teach or suggest any of the operations recited in this portion of the claim.

The rejection also cites a catalog. However, the rejection failed to cite any teaching that the catalog was associated with an authenticated access request as required in these claims. Instead, the rejection reduces the express claim limitations to a promotional ID, but failed to show that the promotional ID was either an authenticated access request or that the promotional ID was authenticated by any rights locker provider.

The above quote from the MPEP establishes that the level of analysis in the rejection is not sufficient for an anticipation rejection. The rejection must point to an authenticated rights locker access request, which is a specific access request and not just some general login parameter. Further, the rejection must show that this access request was authenticated by the rights locker provider. This was not done. This alone is sufficient to overcome the anticipation rejection.

With respect to the sending of the access request and the digital content specification, the rejection stated:

> *(pars. 0029-0033, 0066, 0156-0159, and 0166; Figs. 1 and 2C; step 4a: 'select content'; the consumer selects the products to be downloaded and submits the request for content; the Rights Locker Component (RLC) 104 maintains a Rights Database, which contains rights information for each consumer; see also pars. 0064-0072, 0102-0110, and 0124-0135)* (Emphasis in original.)

This is further error. The rejection does not cite to anything determined in the first operation, which are the elements sent in this portion of the claim and instead cites to a completely different operations in Buhse. The rejection completely ignores the express relationship between the first and second portions of the claim and the

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elements recited in those portions. The rejection itself further demonstrates that different definitions are used depending on the claim portion, which in turn demonstrates that the above quoted requirements of the MPEP have not been made. This also is sufficient to overcome the anticipation rejection.

With respect to the receiving a new authenticated rights locker access request and the recited Web page with at least one link associated with an authenticated digital content request, the rejection stated:

> *(pars. 0033, 0067-0068, 0156-0159, and 0165-0166; Fig. 2C; step 6a: 'download SW request '; the Rights Locker Component (RLC) 104 is the client's branded customer interface; the consumer is prompted to download software needed to play the content; see also pars. 0047-0062, 0064-0071, and 0169-0172)* (Emphasis in original.)

Yet again, the rejection failed to cite to any authenticated request, let alone two different types of authenticated requests as recited in this portion of the claim. Further, the authenticated rights locker access request is the same type of access request as recited in the first portion of the claim, except the access request in this portion is new. There is no consistency in this part of the rejection with the rejection of the first portion of the claim. The rejection has failed to cite any teaching of a request that was cited with respect to the first portion of the claim that is the same type of request,--an authenticated rights locker access request--but is new with respect to this portion of the claim. In fact, the type of request cited "download software" is different from the types cited with respect to the first portion of the claim. Further, the rejection has failed to cite the specific links recited in this portion of claim. Yet again, the requirements of the MPEP are not met.

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With respect to the user device receiving an indication of a selection of one of the links on the web page, the rejection stated:

> *(par. 0068; Fig. 2C; step 6a: 'download SW request '; the consumer is prompted to download software needed to play the content; see also pars. 0055-0063, ,0156-0159,0165-0166, and 0185-0190; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download; the result returned is either in the form of links to retrieve the content, or proprietary order blocks)*(Emphasis in original.)

Again, the express claim limitation is reduced to a gist "prompted to download software." This not receipt of a user selection but rather an action initiated by a computer system rather than any user. In addition, there is no showing that downloading software is in anyway associated with the link as defined in the claim that is associated with an authenticated digital content request.

Next, with respect to the claim recitation of sending the new authenticated rights locker access request and an indication of the right associated with the user selected link, the rejection stated:

> *(pars. 0055-0063, 0068, and 0185-0190; Figs. 2C and 7C; step 6b: 'SW downloaded'; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download; the result returned is either in the form of links to retrieve the content, or proprietary order blocks; see also pars. 0106, 0155-0157, and 0165-0166; the consumer determines which rights to transfer to other devices)* (Emphasis in original.)

As noted above the rejection failed to cite a new authenticated rights locker access request and also failed to cite any teaching that the link in the Web page had any associated authenticated rights. A general request to download something fails to teach anything about authentication or the type of request sent to initiate the download. Further, the fact that rights management may be

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used does not teach that a request is authenticated. To the extent that the rejection may be relying upon some unstated inherency, this is error. The MPEP directs:

> "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' "

MPEP § 2112, IV., 8th Ed., Rev. 7, pg. 2100-47 (July, 2008).

The fact that there is a possibility that a rights management system may include an authenticated request is not sufficient. The mere fact that some authentication may result from a rights management system is not sufficient according to the MPEP. Further, even if it were sufficient, general knowledge of authentication does not teach or suggest the specific elements recited in these claims. This is further evidence that the anticipation rejection is not well founded.

Finally, with respect to the last portion in the claim, the rejection does not relate the content received to anything that was cited in the previous portions that was purported to teach the "new authenticated rights locker access request.

The rationale for maintaining the rejection further demonstrates that the Office apparently does not observe the requirements quoted above in the MPEP for an anticipation rejection. In particular, the rationale for continuing the rejection was:

> It is clear that a user is able to access to the digital distribution system, place an order, and trigger all functionalities of the Digital Rights Management system; and therefore, Buhse encompasses all limitations claimed by the Applicants in claims 10, 15, 28, 33, 72, and 85.

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> Consumers are able to access to the digital distribution system, place an order, and trigger all functionalities of the Digital Rights Management system.
>
> It is clear that a user is able to access to the digital distribution system, place an order, and trigger all functionalities of the Digital Rights Management system; and therefore, Buhse encompasses all.

This is further evidence that express claim limitations have been ignored and the requirements of the MPEP have not been satisfied. The express claim limitations have been reduced to a user accessing a digital distribution center with digital rights management functionality. Assuming the fact repeatedly stated is true, it is not sufficient to meet the requirements of the MPEP and the quotation concerning inherency from the MPEP further demonstrates the errors in the logic of the rejection. Applicants have demonstrated multiple reasons why Buhse fails to meet the requirement of the MPEP for an anticipation rejection. Only one of these showings is needed to overcome the anticipation rejection. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 10, 28, and 72.

Applicant respectfully traverses the anticipation rejection of each of Claims 11, 14, 29, 32, 73 and 84. Each of these claims distinguishes over Buhse at least for the same reasons as the independent claim from which it depends. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 11, 14, 29, 32, 73 and 84.

With respect to Claims 15, 33, and 85, Applicants use Claim 15 as an example. Each operation in Claim 15 is performed by the same entity, a rights locker provider. As in Claim 10, the access request is not an access request in general, but rather a rights locker access request. However, the access is not just a rights locker access request but an authenticated rights locker access request.

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In addition, the authenticated rights locker access request was authenticated by the rights locker provider for the rights locker.

As noted above, Buhse fails to teach any authenticated request and to the extent that the rejection relies upon inherency such reliance is inappropriate as quoted above from the MPEP. Fig. 6B shows the operation performed by the rights locker component of Buhse, which the rejection ignores and instead extracts parts of Buhse based on the claim language.

These claims also recite that the rights locker provider creates a Web page with at least one link that includes an authenticated digital content request and sends the Web site and another authenticated rights locker access request to a user device. A consumer visiting a rights locker website teaches or suggests nothing about what entity created the web page and fails to teach sending the web page with the recited access request to a user device.

Further, the rejection has not cited any teaching of the links on the website other than "Rights Locker website to view the subscription plan (playlist) and selects tracks to download." Viewing a playlist and selecting tracks to download is different from what is recited in the claims and fails to teach the invention in the same level of detail and arranged as required in the claim.

Also, the rejection fails to cite with consistency any teaching that the second authenticated rights locker request is created by the rights locker provider, sent to the user device by the rights locker provider, and then received back by the rights locker provider from the user device. Instead, the rejection jumps around in Buhse and cites to different things, which do not teach such operations with respect to a single authenticated rights locker access request, let alone the very specific second access request recited in the claims. As previously noted the rejection takes pieces from different parts of a system

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and recombines those pieces according to Applicant's claim language and not any teaching in Buhse.

Yet again, the explicit claim language has been reduced to a gist, but the MPEP requires that Buhse show the invention recited in these Claims in the same level of detail. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 15, 33 and 85.

Applicant respectfully traverses the anticipation rejection of each of Claims 18, 36, and 88. Each of these claims distinguishes over Buhse at least for the same reasons as the independent claim from which it depends. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 18, 36, and 88.

Claims 12, 13, 16, 17, 30, 31, 34, 35, 48, 49, 52, 53, 82, 83, 86 and 87 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buhse in view of U.S. Patent No. 7,136,631, hereinafter referred to as Jiang.

Applicant respectfully traverses the obviousness rejection of each of Claims 12, 13, 16, 17, 30, 31, 34, 35, 82, 83, 86 and 87. Assuming the combination of references is correct, the additional information cited in Jiang fails to correct the deficiencies in Buhse as noted above with respect to the independent claims from which these claims depend. Applicant respectfully requests reconsideration and withdrawal of obviousness rejection of each of Claims 12, 13, 16, 17, 30, 31, 34, 35, 82, 83, 86 and 87.

Claims 74 to 81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buhse in view of U.S. Patent Application Publication No. 2003/0073440, hereinafter referred to as Mukherjee.

Applicant respectfully traverses the obviousness rejection of each of Claims 74 to 81. Assuming the combination of references is correct, the additional information cited in Mukherjee fails to correct the deficiencies in Buhse as noted above with respect to the

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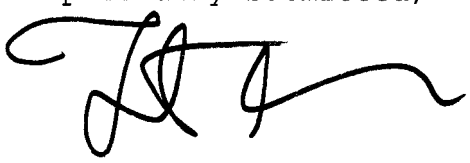
independent claim from which these claims depend. Applicant respectfully requests reconsideration and withdrawal of obviousness rejection of each of Claims 74 to 81.

Claims 10 to 18, 28 to 36, and 72 to 88 remain in the application. Claims 1 to 9, 19 to 27, and 37 to 71 have been cancelled. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via the Office's EFS-Web system on the date shown below.

Attorney for Applicants — April 16, 2010 Date of Signature

Respectfully submitted,



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